

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CASE NO.

WILLIAM DANIEL DAILEY
4414 Pearse Avenue
Newburgh Heights, OH 44105

PLAINTIFF

v.

UNITED STATES OF AMERICA

DEFENDANT

COMPLAINT FOR DAMAGES UNDER THE FEDERAL TORT CLAIMS ACT

Plaintiff William Daniel Dailey, by counsel, for his Complaint against the Defendant, United States of America, states as follows:

INTRODUCTION

1. This is an action against the Defendant United States of America under the Federal Tort Claims Act, (28 U.S.C. §2671, *et seq.*) and 28 U.S.C. §1346(b)(1), for negligence and professional malpractice in connection with medical care provided to Plaintiff Dailey by the Department of Veterans Affairs at the Cleveland Veterans Affairs Medical Center.

2. The claims herein are brought against the Defendant pursuant to the Federal Tort Claims Act (28 U.S.C. §2671, *et seq.*) and 28 U.S.C. §1346(b)(1), for money damages as compensation for personal injuries caused by the Defendant's negligence.

3. Plaintiff Dailey has fully complied with the provisions of 28 U.S.C. §2675 of the Federal Tort Claims Act. *Standard Form 95 attached as Exhibit 1.*

4. This suit has been timely filed, in that Plaintiff Dailey timely served notice of his claim on the Department of Veterans Affairs less than two years after the incident forming the basis of this suit.

5. Plaintiff Dailey is now filing this Complaint pursuant to 28 U.S.C. §2401(b) after receiving the Department of Veteran Affairs' October 26, 2017 notice of "final denial of administrative claim." *Administrative Tort Claim Denial Letter attached as Exhibit 2.*

PARTIES, JURISDICTION AND VENUE

6. Plaintiff Dailey is, and at all times relevant hereto was, a resident of Cuyahoga County, Ohio.

7. Defendant United States of America, through its agency, the Department of Veterans Affairs, operates the Veterans Affairs Medical Center located at 10701 East Boulevard, Cleveland, Ohio 44106.

8. Defendant United States of America, including its directors, officers, operators, administrators, employees, agents, and staff at the Cleveland VA Medical Center are hereinafter collectively referred to as "Cleveland VA Medical Center."

9. At all times relevant this Complaint, the Cleveland VA Medical Center held itself out to the Plaintiff and eligible beneficiaries, as a provider of high quality health care services, with the expertise necessary to maintain the health and safety of patients like the Plaintiff.

10. At all times relevant to this Complaint, the directors, officers, operators, administrators, employees, agents, and staff were employed by and/or acting on behalf of the Defendant. Furthermore, the Defendant is responsible for the negligent acts of its employees and agents under respondeat superior.

11. Jurisdiction is proper under 28 U.S.C. §1346(b)(1).

12. Venue is proper under 28 U.S.C. §1402(b) in that plaintiff resides in the Northern District of Ohio and all, or a substantial part of the acts and omissions forming the basis of these claims occurred in the Northern District of Ohio.

FIRST CAUSE OF ACTION

13. On or about July 21, 2015, Plaintiff came under the care of Defendant and/or its agents and employees at the VA Medical Center in Cleveland, Ohio. Thereafter, the Defendant, and/or its agents and employees failed to provide medical care in accordance with the standard of care for similarly trained and educated physicians and healthcare providers in similar circumstances and specifically failed to timely diagnose and appropriately decompress a spinal abscess that was compressing Plaintiff's spinal cord.

14. As a result of the negligence of the Defendant and/or its agents and employees, the Plaintiff has suffered injury and disability, including incomplete quadriplegia, has incurred medical expenses, has lost wages and earning capacity and has been otherwise damaged. All of the injuries and damage are permanent.

WHEREFORE, Plaintiff seeks damages against the Defendant in the amount of TEN MILLION DOLLARS (\$10,000,000), together with interest, costs and attorney fees.

Respectfully submitted,

s/ Dennis R. Lansdowne

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